

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND ELEVENTH LEGISLATURE

**SECOND SPECIAL SESSION**

November 18, 1983

AND AT THE

**SECOND REGULAR SESSION**

January 4, 1984 to April 25, 1984

AND AT THE

**THIRD SPECIAL SESSION**

September 4, 1984 to September 11, 1984

PUBLISHED BY THE DIRECTOR OF LEGISLATIVE RESEARCH  
IN ACCORDANCE WITH MAINE REVISED STATUTES  
ANNOTATED, TITLE 3, SECTION 164, SUBSECTION 6.

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED AT THE  
SECOND REGULAR SESSION  
of the  
ONE HUNDRED AND ELEVENTH LEGISLATURE  
JANUARY 4, 1984 TO APRIL 25, 1984

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cause such officer or officers are performing some act authorized or required by a District Court Rule of Criminal Procedure or is a witness in a criminal or traffic infraction case within the jurisdiction of the District Court. A municipality shall be deemed to have lost the services of a law enforcement officer when such officer, who normally performs duties of patrolling or maintaining order, is physically unable to perform those duties of patrolling and maintaining order for such municipality.

The sheriffs of the several counties shall designate and furnish deputy sheriffs to serve as bailiffs in each division of the District Court within their counties, if so requested by the Chief Judge.

Compensation for such service shall be paid by the District Court.

In those municipalities where a police officer has been furnished heretofore to serve as a bailiff, the Chief Judge may continue to authorize the use of a police officer as a bailiff and the municipality shall be compensated therefor by the District Court. A person now appointed to serve as bailiff may also not serve as court officer for a municipal police department, as provided in this subsection, but shall be compensated only for his services in one capacity.

Effective July 25, 1984.

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## CHAPTER 743

H.P. 1806 - L.D. 2385

AN ACT to Amend Certain Provisions of the  
Department of Environmental Protection  
Statutes.

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §711, sub-§2, ¶A, sub-¶(4-A), as amended by PL 1983, c. 489, §4, is repealed.

Sec. 2. 38 MRSA §342, sub-§5, as repealed and replaced by PL 1983, c. 566, §2, is repealed and the following enacted in its place:

5. Designation of deputy commissioner. A deputy commissioner shall be appointed by and serve at the pleasure of the commissioner. The commissioner shall prescribe the duties of the deputy as he deems necessary to fulfill the responsibilities of the department.

Sec. 3. 38 MRSA §345-A, sub-§1, as enacted by PL 1983, c. 566, §6, is amended to read:

1. Hearings. Except as provided in the Maine Administrative Procedure Act, Title 5, section 8052, subsection 2, whenever the board or the Department of Environmental Protection is required or empowered to conduct a hearing pursuant to any provision of law, the hearing may be held and conducted by any member of the board or any employee or representative of the Department of Environmental Protection so authorized by the board and may be held if at least 2 members of the board are present.

Sec. 4. 38 MRSA §347, sub-§1, as amended by PL 1983, c. 566, §7, is further amended to read:

1. General procedures. Whenever it appears to the Board of Environmental Protection, after investigation, that there is a violation of any provisions of the laws or regulations which it administers, or of the terms or conditions of any of its orders, which does not create a substantial or immediate danger to public health or safety, the board may notify the Attorney General or schedule a hearing thereon. If a hearing is scheduled, the commissioner shall give at least 30 days' written notice to the alleged violator of the date, time and place of that hearing. The notice shall specify the act done or omitted to be done which is claimed to be in violation of law.

Any hearing conducted under the authority of this ~~section~~ subsection shall be in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.

At the hearing, the alleged violator may appear in person or by attorney and answer the allegations of violation and file a statement of the facts, including the methods, practices and procedures, if any, adopted or used by him to comply with this chapter and present such evidence as may be pertinent and relevant to the alleged violation.

After hearing, or in the event of a failure of the alleged violator to appear on the date set for a hearing, the board shall, as soon thereafter as prac-

licable, make findings of fact based on the record and, if it finds that a violation exists, it shall issue an order aimed at ending the violation.

Sec. 5. 38 MRSA §352, sub-§4, as enacted by PL 1983, c. 574, §1, is amended to read:

4. Accounting system. In order to determine the extent to which the aforementioned functions are necessary for the licensing process, or are being performed in an efficient and expeditious manner, the board shall require that all employees of the department involved in any aspect of these functions shall keep accurate and regular daily time records describing the matters worked on, services performed and amount of time devoted thereto, as well as amounts of money expended in performing these functions.

TABLE I

MAXIMUM FEES IN DOLLARS

Title 12 SECTION	FILING FEE	PROCESSING FEE	LICENSE FEE
4807-C, Minimum lot size	\$ 3.00	\$ 25.00	\$ 25.00
Title 38 SECTION	FILING FEE	PROCESSING FEE	LICENSE FEE
362-A, Experiments	\$ 10.00	\$ 30.00	\$ 160.00
393, Great ponds	2.50	65.00	50.00
413, Waste discharge license			
A. Residential	5.00	15.00	10.00
B. Commercial	10.00	30.00	160.00
C. Industrial, minor	<del>25.00</del>	<del>450.00</del>	<del>1,985.00</del>
(based upon EPA list of ma- jor and minor source dischargers)			
<u>1. Discharges of cooling wa- ter, sanitary waste water or treated storm water only</u>	<u>25.00</u>	<u>450.00</u>	<u>160.00</u>

	<u>2. All others</u>	<u>25.00</u>	<u>450.00</u>	<u>1,985.00</u>
	D. Industrial, major (based upon EPA list of ma- jor and minor source dischargers)	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>
	<u>1. Discharges of cooling water or sanitary waste water only</u>	<u>35.00</u>	<u>1,130.00</u>	<u>750.00</u>
	<u>2. All others</u>	<u>35.00</u>	<u>1,130.00</u>	<u>2,170.00</u>
	E. Publicly owned treatment works	<u>17.00</u>	<u>80.00</u>	<u>1,785.00</u>
	<u>1. Flow of less than 0.5 million gal- lons/day and no significant in- dustrial component</u>	<u>15.00</u>	<u>40.00</u>	<u>10.00</u>
	<u>2. Flow of at least 0.5 mil- lion gallons/day but less than 5 million gal- lons/day and no significant in- dustrial component</u>	<u>15.00</u>	<u>60.00</u>	<u>1,785.00</u>
	<u>3. Flow of at least 5 million gallons/day or a significant in- dustrial component</u>	<u>15.00</u>	<u>80.00</u>	<u>1,785.00</u>
	F. Special discharges			
	<u>1. Aquatic pesticides</u>	<u>10.00</u>	<u>30.00</u>	<u>10.00</u>
	<u>2. Dredge spoils</u>	<u>10.00</u>	<u>30.00</u>	<u>10.00</u>
418,	Log storage	10.00	45.00	5.00
421,	Solid waste dis- posal areas	12.00	1,375.00	100.00
451,	Mixing zones	35.00	1,130.00	2,170.00
451-A,	Time schedule variances	5.00	10.00	5.00
451-B,	Industrial variances	<del>500.00</del>	<del>2,000.00</del>	<del>1,500.00</del>

471,	Coastal wetlands and sand dunes	3.50	115.00	100.00
<del>482,</del>	<del>Site location</del>			
483,	Site location			
	A. Subdivisions	25.00	25.00/lot	25.00
	B. Structures	25.00	1,000.00	500.00
	C. Mining	25.00	750.00	500.00
	D. Other	25.00	750.00	500.00
543,	Oily waste discharge	10.00	30.00	160.00
560,	Vessels at anchorage	10.00	115.00	100.00
587,	Ambient air quality or emissions standards variances	50.00	5,000.00	50.00
590,	Air emissions licenses			
	A. greater than or equal to 1,000 tons/year of any criteria air pollutant	50.00	10,000.00	1,200.00
	B. greater than or equal to 100 tons/year but less than 1,000 tons/year of any criteria air pollutant	50.00	5,000.00	400.00
	C. less than or equal to 50 tons/year but less than 100 tons/year of any criteria air pollutant	50.00	1,000.00	100.00
	D. less than 50 tons/year of any criteria air pollutant	<u>25.00</u>	<u>500.00</u>	<u>50.00</u>
<del>603,</del>	<del>Low sulfur fuel exemptions</del>	<del>50.00</del>	<del>250.00</del>	<del>250.00</del>
<u>633,</u>	<u>Hydropower projects</u>	<u>25.00</u>	<u>1,500.00</u>	<u>1,000.00</u>
1101,	Sanitary districts	50.00	100.00	50.00
1304,	Waste facilities			
	A. Septage and sludge	<del>12.00</del>	<del>500.00</del>	<del>500.00</del>
	<u>A. Septage facilities, other than landfill or</u>	<u>12.00</u>	<u>250.00</u>	<u>250.00</u>

<u>landspreading sites</u>			
B. Transfer stations	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
B. Sludge facilities, other than landfill or landspreading sites	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
E. Landfills	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
C. Landspreading sites	<u>12.00</u>	<u>35.00</u>	<u>35.00</u>
D. Other	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
D. Transfer stations	<u>12.00</u>	<u>500.00</u>	<u>500.00</u>
E. Landfills	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
F. Resource recovery and volume reduction facilities	<u>75.00</u>	<u>1,500.00</u>	<u>1,500.00</u>
G. Other, including land-applied waste utilization programs	<u>12.00</u>	<u>500.00</u>	<u>250.00</u>

Sec. 6. 38 MRSA §353, sub-§§2, 3 and 5, as enacted by PL 1983, c. 574, §1, are amended to read:

2. Processing fee. A processing fee shall be paid within 10 days of the time the applicant is notified that the application has been accepted for processing by the commissioner and is not refundable, even if the applicant withdraws the application once processing has begun. Failure to pay the processing fee within the 10-day period will result in the cessation of processing until the fee has been paid. The department shall refund the processing fee if the application is denied by the board or the commissioner.

3. License fee. A license fee shall be paid prior to the issuance of any license or permit. If a license fee is paid prior to board or commissioner action on the application, the department shall refund the license fee if the board or commissioner denies the application.

5. Renewals or amendments. The filing fee for renewals or amendments shall be the same as the filing fee for an initial application. The processing fee for renewals or amendments shall be equal to direct costs up to 1/2 the processing fee for initial applications. The license fee for renewals or

amendments shall be identical to the initial license fee. The license fee for amendments shall not exceed the initial license fee.

Sec. 7. 38 MRSA §353, sub-§§6 and 7, as enacted by PL 1983, c. 574, §1, are repealed and the following enacted in their place:

6. Application deemed unacceptable for processing. An application deemed unacceptable for processing which has been returned to the applicant shall be resubmitted to the department within 60 days of the date the application was returned. If the application is resubmitted after the 60-day period has transpired, the resubmitted application shall be considered a new application and the appropriate fees shall be assessed.

7. Time of payment. All fees assessed for the costs of processing permits issued in accordance with section 344, subsection 7, shall be paid in full when the notification is submitted to the department. All fees for any minor license or permit revision shall be paid in full when the request for the revision is submitted to the department. The applicant may also choose to prepay the filing, processing and license fees for applications pertaining to any other license or permit category.

Sec. 8. 38 MRSA §361, 3rd ¶, as amended by PL 1983, c. 483, §5 and PL 1983, c. 566, §10, is repealed and the following enacted in its place:

Meetings of the board shall be held at such time and place as shall be determined by the board, but not less than 2 meetings per year shall be held. The board may elect a secretary who shall serve until a successor is elected, and who need not be chosen from among the members of the board. Six members of the board shall constitute a quorum for these meetings.

Sec. 9. 38 MRSA §371-A, sub-§3, as amended by PL 1979, c. 281, §2, is repealed and the following enacted in its place:

3. Exemptions. Exemption from the "no discharge" provision is provided for the following activities:

A. Aquatic chemical applications approved by the Board of Environmental Protection; and

B. Commercial extraction operations or waste treatment facilities with discharges that have

been approved by the Board of Environmental Protection, provided that any great pond receiving a discharge was created by the approved operation or facility.

Sec. 10. 38 MRSA §394, as amended by PL 1983, c. 566, §14, is further amended to read:

§394. Exemptions

The Board of Environmental Protection shall promulgate rules designed to reduce procedural requirements and establish specific standards for these alterations, the proper execution of which are deemed to have no significant impact upon the great ponds and which are not inconsistent with the purposes of this chapter. The alterations shall include, but not be limited to: The placement of water lines to serve a single family house; the movement of rocks or vegetation by hand over a shorefront length not to exceed 10 feet; the placement of sand above the high water line; when properly stabilized; the construction of rock riprap erosion control devices above the high water line; the installation of anchoring devices for mooring small boats or holding floating structures; and the installation of cables for utilities such as telephone and power.

Maintenance and minor repair above the high water line causing no additional intrusion of an existing structure into the great pond is exempt from this subchapter.

Sec. 11. 38 MRSA §418, sub-§2, as amended by PL 1983, c. 375, §2 and PL 1983, c. 566, §21, is repealed and the following enacted in its place:

2. Storage; permit. Whoever proposes to use the inland waters of this State for the storage or curing of logs or pulpwood, or for other purposes incidental to the processing of forest products, or to transport logs or pulpwood from islands to the mainland, shall apply to the board for a permit for that use. Applications for these permits shall be in such form and require such information as the board may determine.

Within 45 days of receipt of an application, the board shall either grant the application or hold a public hearing thereon as provided.

If the board is able to find, on the basis of the application, that the proposed use will not lower the existing quality or the classification, whichever is higher, of any waters, nor adversely affect the pub-

lic rights of fishing and navigation therein, and that inability to conduct that use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 10 years, with such terms and conditions as, in its judgment, may be necessary to protect the quality, standards and rights.

In the event the board deems it necessary to solicit further evidence regarding the proposed use, it shall schedule a public hearing on the application.

At that hearing the board shall solicit and receive testimony concerning the nature and extent of the proposed use and its impact on existing water quality, water classification standards and the public rights of fishing and navigation and the economic implications upon the applicant of the use. If, after hearing, the board determines that the proposed use will not lower the existing quality or the classification standards, whichever is higher, of any waters, nor adversely affect the public rights of fishing and navigation therein and that inability to conduct the use will impose undue economic hardship on the applicant, it shall grant the permit for a period not to exceed 10 years, with such terms and conditions, as in its judgment, may be necessary to protect the quality, standards and rights.

Sec. 12. 38 MRSA §451-B, as enacted by PL 1975, c. 683, is repealed.

Sec. 13. 38 MRSA §482, first ¶, as amended by PL 1979, c. 541, Pt. A, §263, is further amended to read:

As used in this ~~subchapter~~ Article, unless the context otherwise indicates, the following terms shall have the following meanings.

Sec. 14. 38 MRSA §599, sub-§2, ¶G, as enacted by PL 1983, c. 504, §7, is amended to read:

G. No person, firm, corporation, association, municipal or state agency may engage in any open burning except in conformity with ~~subsection~~ subsections 3 and 4.

Sec. 15. 38 MRSA §1303, sub-§14, as repealed and replaced by PL 1981, c. 430, §3, is amended to read:

14. Waste facility. "Waste facility" means any land area, structure, location, equipment or combination of them, including dumps, used for handling haz-

ardous or solid waste, sludge or septage. A land area or structure does not become a waste facility solely because:

A. It is used by its owner for disposing of septage from his residence; ~~or~~

B. It is used to store for 90 days or less hazardous wastes generated on the same premises;

C. It is used by individual homeowners or lessees to open burn leaves, brush, deadwood and tree cuttings accrued from normal maintenance of their residential property, when such burning is permitted under section 599, subsection 3; or

D. It is used by its residential owner to burn highly combustible domestic, household trash such as paper, cardboard cartons or wood boxes, when such burning is permitted under section 599, subsection 3.

Sec. 16. 38 M.R.S.A. §1304-B, sub-§ 3, as enacted by PL 1983, c. 380, §1, is amended to read:

3. Ordinances. This chapter shall not be construed as limiting the authority of any municipality to enact ordinances for the regulation of solid waste or septage disposal, provided that these ordinances are not less stringent than or inconsistent with this chapter or the regulations adopted under this chapter.

Effective July 25, 1984.

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## CHAPTER 744

H.P. 1790 - L.D. 2365

### AN ACT to Clarify the Licensure of Administrators of Medical Care Facilities Other than Hospitals.

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, a new category of administrator has evolved in care facilities for the mentally retarded; and